

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CASE NUMBER 1:20CV66

CARYN DEVINS STRICKLAND,

Plaintiff,

v.

United States of America, *et al.*

Defendants.

DEFENDANTS' OBJECTIONS AND COUNTER-DESIGNATIONS
TO PLAINTIFF'S DEPOSITION DESIGNATIONS

Defendants respectfully submit the following information regarding the parties' deposition designations in this case:

- **Anthony Martinez, James Ishida, and Jill Langley**: Because Defendants plan to call these witnesses to testify live for their case in chief, Defendants have noted objections, but not counter-designations.
- **Ed Smith, Heather Beam, Nancy Dunham, and Judge Gregory**: Because neither party intends to call these witnesses at trial, Defendants have noted objections as well as counter-designations.
- **Gary Albrecht and Vida Thomas**: Defendants object in full to the deposition designations of Plaintiff's experts. *See* ECF Nos. 274; 323; 334. Fulsome discussions of Defendants' objections are set forth in Defendants' Motion *in Limine* to Exclude the Testimony of Plaintiff's Expert Vida Thomas, ECF No. 323, and Defendants' Motion *in Limine* to Exclude the Testimony of Plaintiff's Expert Dr. Gary Albrecht, ECF No. 334.

Defendants also conditionally object to Plaintiff's designation of the deposition testimony of Anthony Martinez, James Ishida, Ed Smith, Heather Beam, Nancy Dunham, and Judge Gregory. Plaintiff indicated in the parties' joint pre-trial filing that she would only call these witnesses if their deposition designations were challenged or for the specific purpose of admitting exhibits, *see* ECF No. 259 at 106. In the spirit of cooperation, Defendants have agreed to the following deposition designations listed below with limited objections. If Plaintiff changes course and calls any of these witnesses for her case in chief, Defendants object to the deposition designations in full.

1. Anthony Martinez

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
40-49	FRE 402		
52	FRE 402		
65-85			
89-103			
106-107			
112-119	114:5-119:25; FRE 402		
125-127	125:1-127:15; FRE 402		
134-141	139:16-141:25; FRE 402		
146			
149-175			
179-191			
216-217			

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
221-226	221:1-222:11; FRE 602 224:23-226:25; FRE 402, FRE 602		
240-242			
244-245	244:1-245:25; FRE 402		
270-276			
288 (Witness correction sheet)			

2. James Ishida

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
47-48			
91-114			

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
103-106			
125-126	125:15-126:25; FRE 402		
137-143			
162-176			
179-189			
200-205			
223-228	226:3-228:25; FRE 402		
234-235			

3. Jill Langley

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
1-193	1:1-47:20; FRE 402 49:8-63:12; FRE 402 63:12-64:4; FRE 402; FRE 602		

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
	98:12-103:15; FRE 402 105:20-116:7; FRE 402 118:1-120:19; FRE 402; FRE 602 139:13-144:19; FRE 402 186:5-188:13; FRE 402		

4. Ed Smith

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
1-3					
13-19	FRE 402				
22		23:1-25:3			
27-28		29:1-17			
38-40					
44-47		34:2-21			

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
67-72	67:12-69:26; FRE 402 71:10-71:12; mischaracterization of prior testimony 71:10-72:20; FRE 802	73:1-74:25			
88		87:6-25; 89:14			
94	94:12-24; FRE 402	92:22-93:25			
103		102:19-25			
105	105:6-25; FRE 802	106-107:19			
125					
Witness correction sheet					

5. Heather Beam

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
12		13:1-11; 14:9-14:25			
19					
34-35	FRE 402				
40-43	FRE 402	39:5-25			
57-60	58:20-59:2; FRE 402 59:9-59:22; FRE 402, FRE 802 59:23-60:2; FRE 402 60:8-60:20; FRE 402				
66-67	66:2-66:22; FRE 802, FRE 106 66:23-67:24; FRE 802, Misleading	65:11-25			

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
72-73	72:3-24; FRE 402 73:3-9; FRE 402; FRE 802 73:10-20; FRE 402 73:21-25; FRE 402; FRE 802				
79-82	79:1-81:4; FRE 402 81:5-11; FRE 402, 602 81:12-82:25; FRE 402				
88	88:2-24; FRE 402				
100-101	100:1-19; FRE 402 100:20-22; FRE 802 100:23-101:8; FRE 402 101:9-20; FRE 402, Misleading 101:21-35; FRE 402				
104-124	104:12-21; FRE 402; FRE 602 104:22-23; FRE 802				

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
	104:24-112:7; FRE 402 112:8-113:8; FRE 802 113:9-115:16; FRE 402 115:17-116:1; FRE 802; 402, 602 116:2-25; FRE 602, 402 117:1-118:16; FRE 402 118:17-119:2; FRE 802 119:4-102:25; FRE 402 121:1-121:5; FRE 802 121:6-124:25; FRE 402				
134-135	134:1-135:25; FRE 402				
147-188	147:1-5; FRE 402 147:6-148:21; FRE 802 148:22-149:2; FRE 402				

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
	149:3-7; FRE 402 149:8-20; FRE 402 149:21-150:17; FRE 802 150:18-23; FRE 402 151:5-153:4; FRE 402 153:16-154:4; FRE 402 154:5-155:9; FRE 402; FRE 802 155:10-15; FRE 402 155:16-22; FRE 402; FRE 802 155:23-157:13; FRE 402 157:18-24; FRE 402; FRE 802 158:21-159:1; FRE 802; 402 159:3-5; FRE 402 159:6-9; FRE 402; FRE 802 159:9-161:1; FRE 402 161:2-161:6; FRE 402; FRE 802				

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
	161:7-21; FRE 402 161:22-24; FRE 802 161:25-163:17; FRE 402 163:18-164:13; FRE 402; FRE 802 164:14-166:11; FRE 402 166:15-167:13; FRE 402 167:17-19; FRE 602 167:20-24; FRE 402 167:25-168:21; FRE 602 168:22-173:16; FRE 402 173:17-174:8; FRE 802 174:9-175:24; FRE 402 175:25-176:9; FRE 802 176:10-177-8; FRE 402 177:9-17; FRE 402; 802 177:18-182:23; FRE 402				

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter- designation	Plaintiff's Objection(s) to Counter- designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
	182:25-183:21; FRE 402; FRE 802 183:22-184:17; FRE 402 184:18-185:4; FRE 402, 802 185:5-186:14; FRE 402 186:25-188:25; FRE 402				

6. Nancy Dunham¹

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
1-202	1-16:23; FRE 402 17:5-25:18; FRE 402 25:19-26:3; FRE 402; FRE 802 26:4-29:13; FRE 402 29:13-30:21; FRE 402; FRE 802 31:17-35:19; FRE 402; FRE 602; FRE 802 35:20-42:23; FRE 402 42:23-43:19; FRE 402; FRE 802 43:20-46:15; FRE 402 47:6-25; FRE 402; FRE 602 48:1-61:7: FRE 402 61:8-25; FRE 402; FRE 802 63:21-25; FRE 402; FRE 802				

¹ Because Plaintiff has designated the entire transcript, Defendants have made no counter-designations.

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
	64:1-66:1; FRE 402 70:4-80:7; FRE 402 80:21-103:14; FRE 402 104:5-123:22; FRE 402 123:23-125:15; FRE 402 125:16-25; FRE 402; FRE 602 126:1-11; FRE 402 126:12-127:2; FRE 402; FRE 602; FRE 702 127:3-19; FRE 402; FRE 602 127:20-130:7; FRE 402 130:8-131:8; FRE 402; FRE 602 131:9-132:2; FRE 402; FRE 602; FRE 702 132:3-15; FRE 402; FRE 602 132:16-133:23; FRE 402 134:7-136:25; FRE 402				

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
	137:21-142:19; FRE 402 142:20-143:16 ; FRE 402; FRE 602; FRE 802 143:17-149:7; FRE 402; FRE 602 149:8-159:2; FRE 402 159:3-162:22; FRE 402; FRE 602 164:4-166:24; FRE 402 166:25-167:19; FRE 402; FRE 802 167:20-168:18; FRE 402; FRE 602 168:19-170:5; FRE 402; FRE 802 170:6-12; FRE 402; FRE 602 170:13-172:23; FRE 402 172:24-173:10; FRE 402; FRE 602 173:11-187:8; FRE 402 187:9-20; FRE 402; FRE 602 187:21-188:19; FRE 402 188:20-192:1; FRE 402				

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
	192:2-19; FRE 402; FRE 602; FRE 802 192:20-193:22; FRE 402 193:23-194:9; FRE 402; FRE 602; FRE 802 194:10-24; FRE 402; FRE 602 194:25-195:21; FRE 402 195:22-196:5; FRE 402; FRE 802 196:6-11; FRE 402 196:12-23; FRE 402; FRE 602; FRE 404(b) 196:24-197:20; FRE 402; FRE 602				

7. Judge Rodger Gregory²

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
1-43	6:11-7:21; FRE 402 9:22-11:5; FRE 402; FRE 602 12:22-13:16; FRE 802 13:17-23; FRE 602; FRE 802; Calls for speculation 13:24-14:5; FRE 802 14:9-14:17; FRE 602; FRE 802; Calls for speculation 14:19-22; FRE 402 16:16-17:3; FRE 602; Calls for speculation 17:4-10; FRE 402; FRE 602; Lacks foundation 18:7-15; FRE 602; Lacks foundation				

² Because Plaintiff has designated the entire transcript, Defendants have made no counter-designations.

Plaintiff's Excerpted Testimony	Defendant's Objection(s)	Defendant's Requested Counter-designation	Plaintiff's Objection(s) to Counter-designation	Court's Ruling (Granted, Denied, Granted w/ Mod.)	If Granted with Modification:
	18:16-25; FRE 602; Lacks foundation; Calls for speculation 19:8-21; FRE 602 23:5-7; FRE 402 26:12-18; FRE 402; FRE 602 29:24-32:14; FRE 402; FRE 602; FRE 802; Lacks foundation 33:9-11; FRE 602 34:6-34:10; FRE 402; FRE 602 38:5-39:4; FRE 402				